

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PAMELA BUTLER,

Plaintiffs,

VS.

MALLINCKRODT LLC, et al.,

Defendants.

Case No. 4:18-cv-01701-AGF

Lead Case

MEMORANDUM AND ORDER

This matter is before the Court on the motion to sever (ECF No. 34)¹ filed by Plaintiffs in these four consolidated cases (“Plaintiffs”). The four cases at issue here were filed on October 5, 2018. They each assert public liability actions under the Price-Anderson Act (“PAA”) as amended, 42 U.S.C. §§ 2014, 2210, for bodily injury allegedly resulting from exposure to radioactive waste materials owned by the United States and handled by Defendant Mallinckrodt LLC between 1942 and 1957, and by Defendant Cotter Corporation between 1969 and 1973.

On October 12, 2020, Mallinckrodt filed a Notice of Bankruptcy (ECF No. 30), stating that Mallinckrodt had filed a voluntary petition for relief under Chapter 11 of Title 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1532, et seq. Plaintiffs' claims against Mallinckrodt were therefore automatically stayed pursuant to 11 U.S.C. § 362.

¹ Unless otherwise indicated, all citations to documents in the record refer to documents filed in the lead case, No. 4:18-cv-01701-AGF.


Plaintiffs now seek to sever their claims against Mallinckrodt, so that Plaintiffs may proceed against Cotter notwithstanding the bankruptcy stay as to Mallinckrodt. Cotter opposes the motion and seeks a stay of this litigation pending Mallinckrodt's bankruptcy proceedings. The Court heard oral argument on February 23, 2021.

During oral argument, counsel for Cotter informed the Court of its intent to promptly seek relief from the automatic stay in the bankruptcy court. Counsel for both sides acknowledged that it would be serve the interests of judicial economy for this Court to refrain ruling on Plaintiffs' motion for a limited amount of time, to permit the bankruptcy court to rule on Cotter's forthcoming motion.

Accordingly,

IT IS HEREBY ORDERED that the Court will hold Plaintiffs' motion to sever (ECF No. 34) in abeyance for a period of **120 days**, to permit Defendant Cotter Corporation an opportunity to seek relief from the automatic stay in the bankruptcy court in which Defendant Mallinckrodt LLC's bankruptcy petition is pending.

IT IS FURTHER ORDERED that, on or before **June 23, 2021**, Plaintiffs and Defendant Cotter Corporation shall file a joint notice advising the Court of the status of Cotter's efforts to seek relief from the automatic stay in the bankruptcy court.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 23rd day of February, 2021.